

## REMARKS

Claims 1-25 were presented for examination and are pending. In the first Office Action dated December 21, 2007, claims 1-18 were rejected as anticipated by U.S. Patent Application Publication No. US 2002/0099640 to *Lange*. Claims 2, 3, 5, 6, 10, 11 and 13-18 were rejected as obvious over *Lange* in view of Official Notice. Claims 19-25 were rejected under 35 U.S.C. 101 as directed to non-statutory subject matter.

Claims 1 and 12 are amended and claims 19-25 are cancelled without prejudice to the subject matter thereof, applicant reserving the right to prosecute the cancelled claims in a continuation application. Claims 1-18 remain pending.

The care taken by the Examiner in specifically identifying portions of the lengthy, 90<sup>+</sup> page *Lange* reference in support of the rejections in the Office Action is very much appreciated. The reference has been studied as a whole, with special consideration given to the identified paragraphs. Based on this review and the above amendments, reconsideration of the rejections is respectfully requested in view of the remarks which follow.

A. Anticipation Rejection of Claims 1-18 by *Lange* is Addressed.

The 35 U.S.C. 102(b) rejection of claims 1-18 based upon *Lange* is respectfully traversed.

Amended claim 1 relates to a method of processing **a futures contract**:

defining **an eroding futures contract involving a single futures contract** having a defined size and **a plurality of defined final settlement events**, wherein **the contract** specifies a period of time over which the plurality of defined final settlement events are scheduled to occur;

executing **trades** between buyers and sellers **of the eroding futures contract**; and

upon occurrence of one of the final settlement events, **finally settling part of the futures contract**. (Emphasis added)

Amended claim 12 recites a method for mitigating risk related to price volatility of a commodity, as follows:

establishing a futures position involving a **single futures contract** wherein the futures contract specifies a starting size, a settlement period, and a specified delivery location, wherein the defined settlement period covers a range of time; and

during the defined settlement period, **finally settling a portion of the variable quantity futures contract**. (Emphasis added)

Each of the claimed methods relates to “a single futures contract” in which “a part” or “a portion” is settled. In the terms of claim 1, this results in multiple “trades between buyers and sellers” being executed on the single claimed futures contract. In the terms of claim 12, since only a portion of the variable quantity futures contract is finally settled at a time, the method of claim 12 results in multiple settlements during the defined settlement period.

The claimed methods are different than the methods associated with groups of futures contracts, each having different expiration dates. As clearly defined by *Lange*, a “strip” is a group of futures contracts. Emphasis added. See *Lange* [0709], lines 6-8. In the traditional trading of strips, an individual futures contract or multiple individual futures contracts are settled, each in its entirety, leaving fully unsettled whatever future contracts remain in the strip. Individual futures contracts of a strip are not partially settled.

The difference between the claimed eroding futures contract and a strip is significant for a number of reasons. One reason relates to ongoing calculation of risk, and also to resulting margin requirements. As an initial matter, in a single eroding futures contract involving a single futures contract, risk may be recalculated periodically, for example, on a daily basis, but such a calculation only relates to the single futures contract. As noted at paragraph [0046] of the present specification. In the case of an eroding futures contract in accordance with the present invention, the initial margin value changes upon each settlement event to reduce or erode the initial margin for a contract in proportion to the reduction in the value of the open position for that contract. In contrast, for a strip, for risk calculated at the same periodic rate, risk is expected to be calculated on all futures contracts of the strip remaining unsettled. These multiple calculations may result in multiple margin calls.

Accordingly, independent claims 1 and 12 are patentably distinguishable over

*Lange*, and dependent claims 2-11 and 13-18 are likewise distinguishable over *Lange* through dependence on claims 1 and 12, respectively. Withdrawal of the anticipation rejection of claims 1-18 is thus respectfully requested.

B. Obviousness Rejection of Claims 2, 3, 5, 6, 10, 11, and 13-18 over *Lange* with Office Notice is Addressed.

The rejection of claims 1-18 under U.S.C. §103(a) by *Lange* in view of Office Notice is respectfully traversed.

Claims 2, 3, 5, 6, 10, 11 and 13-18 include the features of independent claims 1 and 12 through dependence, and so each claim relates to a method involving "a single futures contract" which either has a plurality of final settlement events, involving multiple trades and settlement of part of the futures contract (in terms of claim 1) or has a portion of a variable quantity futures contract settling at one time. As discussed above, the strip of futures contracts described in *Lange* is a group of futures contracts, not a single futures contract with an eroding quality in which parts or portions are settled out.

While Official Notice may be taken that a typical futures contract may be settled early at any time up through the final settlement date, either through cash payment or delivery of the underlying commodity, once so settled, the particular futures contract of the strip is no longer open. While other futures contracts in the strip have not reached their settlement date, the early settlement of a particular futures contract of a strip neither teaches nor suggests the settlement of a part of portion of a single futures contract, as is claimed.

Accordingly, dependent claims 2, 3, 5, 6, 10, 11 and 13-18 are patentably distinguishable and non-obvious over a combination of *Lange* and the Official Notice taken by the Examiner. Withdrawal of the obviousness rejection of claims 2, 3, 5, 6, 10, 11 and 13-18 is thus proper and respectfully requested.

C. Rejection of Claims 19-25 Under 35 U.S.C. 101 is Addressed.

The rejection under 35 U.S.C. 101 of claims 19-25 as not constituting statutory subject matter is rendered moot by the cancellation of claims 19-25.

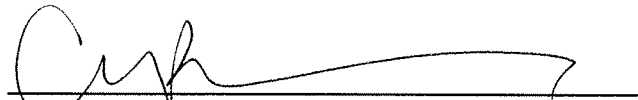
D. Conclusion

Although no fees are believed due for this filing, the Office is authorized to charge Deposit Account No. 50-1123 any fees deemed associated herewith.

The Applicant looks forward to the Examiner's consideration. Should the Examiner be of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is requested to contact Applicant's attorney at the telephone number listed below.

Respectfully submitted,

March 20, 2008

A handwritten signature in black ink, appearing to read 'C. Burton', written over a horizontal line.

Carol W. Burton, Reg. No. 35,465  
Hogan & Hartson LLP  
One Tabor Center  
1200 17th Street, Suite 1500  
Denver, Colorado 80202  
(303) 454-2454 Tel  
(303) 899-7333 Fax